

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

GWACS ARMORY, LLC,)	
)	
Plaintiff,)	
)	
vs.)	Case Number
)	20-cv-0341-CVE-SH
KE ARMS, LLC, RUSSELL PHAGAN,)	BASE FILE
SINISTRAL SHOOTING,)	
TECHNOLOGIES, LLC, BROWNELLS,)	Consolidated with:
INC., and SHAWN NEALON,)	Case No.
)	21-CV-0107-CVE-JFJ
Defendants.)	
)	
and)	
)	
KE ARMS, LLC,)	
)	
Plaintiff,)	
)	
vs.)	
)	
GWACS ARMORY, LLC, GWACS)	
DEFENSE INCORPORATED, JUD)	
GUDGEL, RUSSELL ANDERSON, DOES)	
I through X, and ROE)	
CORPORATIONS I through X,)	
)	
Defendants.)	

THE DEPOSITION OF MICHAEL ERIC KENNEY,
taken on the 27th day of October, 2021, between the hours
of 8:34 a.m. and 4:54 p.m., on behalf of the Plaintiff
GWACS, pursuant to Federal Rules of Civil Procedure, at
the law offices of Hall, Estill, Hardwick, Gable, Golden &
Nelson, 320 South Boston Avenue, Suite 200, Tulsa,
Oklahoma, before Linda Fisher, CSR-RPR, and Notary Public
in and for the State of Oklahoma.

1 I'm asking you what your definition of being
2 undercapitalized is. You've already answered the question
3 about your previous --

4 MR. CALAWAY: I -- I would object.

5 Q. (By Mr. Bogan) -- business not being
6 undercapitalized.

7 MR. CALAWAY: He has answered that
8 question. So we don't want to answer it again.

9 MR. BOGAN: Okay.

10 Q. (By Mr. Bogan) We'll move on. So you have no
11 evidence that they're undercapitalized other than your
12 opinion because they needed to raise money. That's why
13 you think they were undercapitalized?

14 MR. CALAWAY: I object to the form of the
15 question.

16 Q. (By Mr. Bogan) Right?

17 A. No.

18 Q. Keep me straight. why do you think they're
19 undercapitalized?

20 A. Because they're in the marketplace saying that
21 they can build a product, they're not building the
22 product, they don't have the money to build the product,
23 they're asking people to invest in the product.

24 Q. Did you -- did you have investors in the KP-15
25 product?

1 A. Did KE Arms have investors? No.

2 Q. KE Arms didn't have investors for the KP-15
3 product?

4 A. KE Arms does not have any investors.

5 Q. Okay. Who were the three investors that
6 Russell Phagan testified about yesterday?

7 MR. CALAWAY: Object to the form of the
8 question. He wasn't there.

9 A. I have no idea.

10 Q. (By Mr. Bogan) So if Russell Phagan testified
11 there were three investors in the KP-15 product, that is
12 false?

13 A. I don't understand the -- you're saying it's --
14 you're asking is there an investment. And I think your
15 question that I prepared for was is there investors in KE
16 Arms.

17 Q. Yeah. So you're trying to split hairs and say
18 well, they're investors in the project or in the product,
19 not in the company; is that what you're trying to do?

20 A. No. I'm not trying to split anything. I'm
21 trying to ask --

22 Q. Okay. Are there investors in the KP-15
23 product? Don't look at your counsel. Look at me. Are
24 there investors in the KP-15 product?

25 A. You would have to define "product."

1 MR. CALAWAY: I'm going to object to the
2 form of the question.

3 Q. (By Mr. Bogan) You said it was your KP-15
4 product line. What do you want me to answer? Just tell
5 me if there's investors or not. That's all I'm asking.

6 A. I would say --

7 MR. CALAWAY: He answered that. I mean, I
8 object to the form.

9 Q. (By Mr. Bogan) Okay. How much money did you
10 raise to create the KP-15?

11 A. We didn't raise money to create the KP-15. I
12 mean, I guess I don't understand the --

13 Q. Perhaps I misunderstand Mr. Phagan's testimony
14 when he says there's investors, and that you paid roughly
15 one-third of \$350,000. The other people paid the rest.

16 That's what I'm -- that's what I'm asking about.
17 Now, I don't know what you all have going on behind the
18 scenes. But that's what I want to know.

19 MR. CALAWAY: Is there a question? I
20 object to that statement.

21 Q. (By Mr. Bogan) Yeah. Okay. So is your
22 testimony under oath today that there are no investors
23 today other than you and your wife?

24 A. Correct.

25 Q. Is your testimony under oath today there are no